

AMENDED IN ASSEMBLY MAY 28, 2013

AMENDED IN ASSEMBLY MAY 9, 2013

AMENDED IN ASSEMBLY APRIL 23, 2013

AMENDED IN ASSEMBLY APRIL 1, 2013

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

## ASSEMBLY BILL

**No. 609**

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**Introduced by Assembly Member ~~Assembly Members Nestande and Gatto~~**

**(Coauthors: Assembly Members Beth Gaines, ~~Maienschein, Olsen,~~  
*Maienschein, Olsen, and Skinner*)**

February 20, 2013

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An act to add Chapter 2.5 (commencing with Section 13989) to Part 4.5 of Division 3 of Title 2 of the Government Code, relating to state government.

### LEGISLATIVE COUNSEL'S DIGEST

AB 609, as amended, Nestande. State-funded research.

Existing law authorizes the Department of General Services to carry out various powers and duties relating to assisting a state agency in the management and development of intellectual property developed by state employees or with state funding, including, among other duties, developing a database of state-owned intellectual property using specified data.

Existing law authorizes state agencies and departments to, upon request, share records and information related to intellectual property generated by state employees or with state funding with the department. Existing law also imposes certain restrictions on employees and former

employees of the department with respect to divulging certain information provided by state agencies and departments regarding intellectual property.

This bill would enact the California Taxpayer Access to Publicly Funded Research Act. The bill would establish minimum publication requirements for a person receiving funding, in whole or in part, in the form of a research grant from a state agency. The bill would require the grant recipient to provide for public access to any publication of a state agency-funded invention or state agency-funded technology, as specified, including ensuring that an electronic version of the final peer-reviewed manuscript is submitted to the funding agency or to an appropriate publicly accessible database approved by the agency, and is made publicly available no later than 12 months after the official date of publication.

The bill would make legislative findings in support of granting public access to state-funded research and inventions. The bill would also express the intent of the Legislature to encourage all grantees to abide by the publication requirements outlined in the California Code of Regulations for stem cell research California Institute for Regeneration Medicine grants, as specified. The bill would exempt a grantee that receives funding from an agency that has an existing publication requirement that meets or exceeds the requirements of this bill.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1     SECTION 1. Chapter 2.5 (commencing with Section 13989)  
2     is added to Part 4.5 of Division 3 of Title 2 of the Government  
3     Code, to read:

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5                     CHAPTER 2.5. STATE-FUNDED RESEARCH

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7     13989. This act shall be known and may be cited as the  
8     California Taxpayer Access to Publicly Funded Research Act.

9     13989.2. For purposes of this chapter, “state agency” shall  
10    mean an entity within the executive branch, including, but not  
11    limited to, all departments, boards, bureaus, commissions, councils,  
12    and offices. Neither the University of California, nor the California  
13    State University, is included in the definition of state agency.

1 13989.4. The Legislature finds and declares *all of* the following:

2 (a) The state is home to many of the world's top research  
3 universities, national laboratories, and leading-edge  
4 high-technology companies that generate significant intellectual  
5 property.

6 (b) It is in the interest of the state to ensure that the results of  
7 state-funded research are promptly developed and protected and  
8 to ensure free public Internet access to the results, where  
9 appropriate.

10 (c) The expansion of innovation with the investment of taxpayer  
11 dollars in the form of publicly funded grants could generate public  
12 benefit, including, but not limited to, reinvestment in research,  
13 development of new innovations, and jobs created from these types  
14 of research.

15 (d) It is the intent of the Legislature that any grantee who  
16 receives funding in the form of a research grant from a state agency  
17 abide by the publication requirements outlined in subdivisions (a)  
18 to (d), inclusive, of Section 100303 of Title 17 of the California  
19 Code of Regulations, as amended on March 21, 2013, and in effect  
20 on July 1, 2013.

21 13989.6. (a) Any grantee that receives funding, in whole or  
22 in part, in the form of a research grant from a state agency shall  
23 provide for free public access to any publication of a state  
24 agency-funded invention or state agency-funded technology, as  
25 provided in this section.

26 (b) For any manuscript that is peer reviewed and accepted for  
27 publication in a scientific journal, the grantee shall ensure that an  
28 electronic version of the final peer-reviewed manuscript is  
29 submitted to the funding agency or to an appropriate publicly  
30 accessible database approved by the agency, including, but not  
31 limited to, the California Digital Library, PubMed Central, or the  
32 California Digital Open Source Library, to be made publicly  
33 available no later than 12 months after the official date of  
34 publication. Manuscripts submitted to the California Digital Open  
35 Source Library shall be exempt from the requirements in  
36 subdivision (b) of Section 66408 of the Education Code. The  
37 grantee shall make reasonable efforts to comply with this  
38 requirement through submission of the manuscript to an approved  
39 publicly accessible database, including notifying the funding  
40 agency of submission. If the grantee is unable to submit the

1 manuscript to an approved publicly accessible database, the grantee  
2 may comply by providing the manuscript to the funding agency,  
3 no later than 12 months after the official date of publication. In  
4 lieu of the final peer-reviewed manuscript, the grantee may submit  
5 the final published article.

6 (c) For publications other than those described in subdivision  
7 (b), including meeting abstracts, the grantee shall comply by  
8 providing the manuscript to the funding agency no later than 12  
9 months after the official date of publication.

10 (d) Grantees are responsible for ensuring that any publishing  
11 or copyright agreements concerning submitted articles fully comply  
12 with this section.

13 (e) Grantees are authorized to use grant money for publication  
14 costs, including fees charged by a publisher for color and page  
15 charges, or fees for digital distribution.

16 (f) This chapter shall not apply to a grantee that receives funding  
17 from a state agency or funding agency that has an existing  
18 publication requirement that meets or exceeds the requirements  
19 of this section, on or before the effective date of this chapter.